

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

Upon entry of the foregoing amendments the specification is amended, claims 97-116 are cancelled and claims 117-136 are added, whereby claims 117-136 will be pending, with claim 117 being the only independent claim.

Support for the new claims can be found throughout the present specification (see, e.g., pages 7, 8 and 173-175) and in the original claims.

Applicants emphasize that the cancellation of claims 97-116 is without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the cancelled claims in one or more continuation and/or divisional applications.

**Summary of Office Action**

As an initial matter, Applicants note with appreciation that the Examiner has indicated consideration of the Information Disclosure Statements filed November 30, 2006 and May 5, 2009 by returning signed copies of the Forms PTO-1449 submitted therein, and also has acknowledged the claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f) and the receipt of certified copies of the priority documents from the International Bureau.

Applicants further note with appreciation that the method of using the elected species (compound A1.002) for the treatment of chronic neuronal diseases is indicated to be allowable.

The specification is objected to because it lacks a brief description of the drawings.

Claim 98 is objected to under 37 CFR 1.75(c).

Claims 101, 102 and 105-116 are withdrawn from consideration.

Claims 103 and 104 are rejected under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement with respect to the prevention of the diseases recited therein.

Claims 103 and 104 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 97-100, 103 and 104 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Steffan et al., WO 02/090534 (hereafter "STEFFAN").

Claims 97 and 98 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Eckstein et al., "Correlation between chemical structure and biological activity of some phenoxyacetic amide derivatives", Medelingen Rijksfaculteit Landbouwwetenschappen, Gent (1969), Vol. 34, No. 3, pages 990-101 (hereafter "ECKSTEIN") in view of Nakanishi et al., Chem. Phar. Bull. 1983, Vol. 31, No. 9, pages 3255-3263 (hereafter "NAKANISHI") and Emerson et al. U.S. Patent No. 5,639,794 (hereafter "EMERSON").

#### Response to Office Action

Reconsideration and withdrawal of the objections and rejections of record are respectfully requested, in view of the foregoing amendments and the following remarks.

***Response to Objection to Specification***

The specification is objected to because it lacks a brief description of the drawings.

In response, Applicants are submitting herewith an Amendment to the Specification with which a brief description of the drawings is incorporated into the specification, thereby rendering this objection moot.

***Response to Objection to Claim 98***

Claim 98 is objected to under 37 CFR 1.75(c) because compounds A1.007 and A1.011 recited therein are allegedly not within the scope of claim 97.

Applicants respectfully disagree with the Examiner in this regard. At any rate, claims 97 and 98 are cancelled and the claims submitted herewith do not recite compounds A1.007 and A1.011 in any of the dependent claims, thereby rendering this objection moot.

***Response to Rejection under 35 U.S.C. § 112, First Paragraph***

Claims 103 and 104 are rejected under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement with respect to the prevention of the diseases recited therein.

Applicants respectfully disagree with the Examiner in this regard as well. At any rate, claims 103 and 104 are cancelled and the claims submitted herewith do not recite the prevention of any disease, thereby rendering this rejection moot as well.

***Response to Rejection under 35 U.S.C. § 112, Second Paragraph***

Claims 103 and 104 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants respectfully disagree with the Examiner in this regard. At any rate, the rejected claims are cancelled and the claims submitted herewith do not show the alleged deficiencies of claims 103 and 104 set forth in sections 3. and 4. of the present Office Action, thereby rendering this rejection moot as well.

***Response to Rejection under 35 U.S.C. § 102(b)***

Claims 97-100, 103 and 104 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by STEFFAN. The rejection alleges that STEFFAN teaches a method of treating Alzheimer's disease comprising administering to a patient a histone acetylase inhibitor such as Scriptaid (compound A1.009 in claim 98).

Applicants submit that claims 97-100, 103 and 104 are cancelled and the claims submitted herewith do not encompass Scriptaid, thereby rendering this rejection moot as well.

***Response to Rejection under 35 U.S.C. § 103(a)***

Claims 97 and 98 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over ECKSTEIN in view of NAKANISHI and EMERSON. The rejection alleges that ECKSTEIN teaches that hydroxamic acid derivatives such as 2-methyl-4-chlorophenoxyacetylhydroxamic acid as systemic fungicides. The rejection concedes that ECKSTEIN (i) fails to disclose 2-methyl-4-

chlorophenoxypropionylhydroxamic acid (the elected species A1.002) and also (ii) fails to disclose a composition comprising a hydroxamic acid derivative in combination with a pharmaceutically acceptable carrier and adjuvant but essentially asserts that deficiency (ii) is cured by NAKANISHI and EMERSON and that it would allegedly have been *prima facie* obvious to a person of ordinary skill in the art to use chlorophenoxypropionylhydroxamic acid instead of its homologue 2-methyl-4-chlorophenoxyacetylhydroxamic acid as a systemic fungicide.

Applicants respectfully disagree with the Examiner in this regard as well. In particular, while 2-methyl-4-chlorophenoxyacetylhydroxamic acid is disclosed in ECKSTEIN as one of the tested compounds, ECKSTEIN makes it clear that this compound (M-AOH) and class of compounds (AOH) in general shows an only weak activity and in particular, an activity which is (much) lower than the activity of corresponding compounds wherein the OH group at the nitrogen atom (Y) is replaced by H (M-AH, AH) or methoxy, OMe (M-AOMe, AOMe). In this regard, page 993, third paragraph from the bottom, and Fig. 5 at page 998 of ECKSTEIN may particularly be referred to.

It is submitted that in view of the described unsatisfactory results obtained with 2-methyl-4-chlorophenoxyacetylhydroxamic acid, one of ordinary skill in the art would be discouraged rather than motivated to prepare homologues of this compound and use these homologues as systemic fungicides, the more so since the results described by ECKSTEIN for other derivatives of phenoxyacetylhydroxamic acid (e.g., compounds of the type AH and AOMe) are much more favorable than those for the compounds of the type AOH.

Applicants submit that for at least all of the foregoing reasons, the rejection under 35 U.S.C. § 103(a) over ECKSTEIN in view of NAKANISHI and EMERSON is without merit, wherefore

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withdrawal thereof is warranted.

## CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,  
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/Heribert F. Muensterer/  
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